REMARKS

We request approval of the drawing correction as shown in red on the attached drawing copy of FIG. 2. The deleted number 185 should not be there. That number already refers to tubes in the same figure.

Claims 1 to 38 are in the application of which claims 18, 21, 22, 24 and 26 to 32 are allowed and dependent claims 6, 9 to 11, 14 and 15 are indicated as being allowable over the prior art. Those latter claims have been rewritten in independent form and therefore should be allowed.

Claims 1 to 5, 7, 8, 12, 13, 16, 17, 19, 23, 25 and 33 to 38 stand rejected as being unpatentable over Neumann et al. alone or in combination with Fogt, Kateman or Rader.

The Neumann et al. patent discloses an ice-maker comprising a stationary freezing surface 34 and rotary scrapers 36, 38 and 40 which scrape frozen water, i.e. ice, from the freezing surface and direct the ice scrapings up onto an overlying plate 66 which rotates with the scrapers where the ice scrapings remain as discrete ice pieces or chunks until removed. Thus, those ice scrapings are never formed into a ridge row on the freezing surface 34, they are never collected or consolidated at the periphery of surface 34 and they are never compacted to form a product.

Applicant's claim 1, on the other hand, specifies in the penultimate clause thereof that the solidified product layer is scraped from the surface on which it is

formed as scrapings and consolidated at the periphery of that same surface and then the consolidated scrapings are removed from that same surface as the food product.

This is obviously not true for the Neumann et al. icemaker. Furthermore, when reading that reference, the so-called skilled artisan would never think to modify that teaching to perform the last two steps in applicant's claim 1 because that would be completely contrary to Neumann's objective which is to produce and collect discrete ice pieces or chunks on a separate plate 66.

Since the Neumann et al apparatus is only used to make ice, it cannot possibly suggest the substance of claim 4. The same is true with respect to claim 5. The Fogt device also only makes ice. Different mix compositions were not contemplated by those prior patentees.

With regard to claims 7 and 8, Neumann et al neither compacts nor consolidates ice scrapings into a body nor deposits same into a container.

Claim 12 is allowable over Neumann et al. for substantially the same reasons. The last two clauses of amended claim 12 are neither disclosed in nor suggested by that reference.

Referring to claim 16, there is nothing in Neumann et al. to suggest the last two clauses in claim 16. In Neumann et al., the ice scrapings are deposited randomly as ice chunks on plate 66 spaced above the freezing surface. The scrapings are never even on

the freezing surface as required by that claim. Rather, when the ice is scraped from the freezing surface 34, it is already in chutes 44.

The same is true with claims 18 and 19. Furthermore, with respect to claim 19, the Neumann et al. ice scrapings or chunks reside on the overlying plate 66. They are never scraped into a ridge row on the freezing surface 34 that is pushed into a forming cylinder and ejected as specified by the last clause of claim 19.

Claims 23 and 25 are allowable for the same reasons stated above in connection with claim 1.

Claims 33 and 35 are allowable for the same reasons as stated above in connection with claim 19.

Claim 37 is allowable for the same reasons as stated above in connection with claim 1.

With regard to the Rader patent applied against claims 16, 17, 23, 25 and 33 to 38, contrary to the Examiner's contention, and as is clear from the patent title, Rader does not disclose a freezer with a horizontal surface which is rotary. Rather, Rader's freezing surface (evaporator 32) is stationary; the harvester bars 90, 92 rotate. In that respect then, the Rader apparatus is no different than the one disclosed in the Neumann et al. patent.

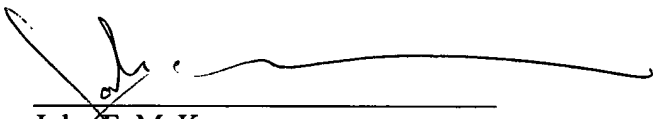
In sum, the references of record whether considered singly or in proper combination fail to disclose dispensing apparatus wherein food product scrapings are collected at the periphery of a rotary freezing surface and compacted to form a food product.

New independent method claim 39 is similar to allowed claims 6 and 14 in requiring that the liquid product be leveled prior to its setting on the rotary surface and new independent claim 44 is allowable for the same reasons as allowed claims 24 and 29, i.e. it includes a leveler for leveling the liquid product mix on the rotary surface.

Accordingly and for the foregoing reasons all of the claims in this application should be allowed.

Please charge any additional fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,



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